

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

HOWARD E. NEASE and
NANCY NEASE,

Plaintiffs,

v.

CIVIL ACTION NO. 3:13-29840

FORD MOTOR COMPANY,
a Delaware Corporation,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Plaintiffs' Motion in Limine Limiting the Testimony of Defense Designated Expert Witness Larry D. Peterson (ECF No. 108). Plaintiffs seek to exclude the video presentation and testimony of defense expert Larry D. Peterson concerning an experiment or simulation he conducted to demonstrate the effectiveness of the brakes on a similar vehicle. The Court **GRANTS** Plaintiffs' Motion.

Mr. Peterson drove a similar vehicle on an unoccupied section of roadway and observed how well the brakes would work to slow or stop the vehicle. He performed several maneuvers combining pressing or tapping the brake pedal with the throttle opened to varying degrees, purportedly testing the efficiency of the brakes with and without the "vacuum assist," or "booster," component of the braking system. He testified that he was trying to replicate how the brakes would have been sufficient to slow and stop Plaintiffs' vehicle even with the gas pedal all the way

down. He concluded that Plaintiffs' brakes would have been sufficient to stop the vehicle, and avoid its collision with a brick wall, even in the "booster" component was inoperable.

The Court concludes that this video demonstration was not sufficiently similar to fairly depict the event nor sufficiently measured to make it useful to the jury. As to the former, in this case it is undisputed that Plaintiffs' vehicle left the roadway, struck a curb and ran across landscaping before it rammed into a brick wall. Peterson's demonstration neither made nor accounted for any similar maneuvers. His failure to measure the parameters and results of his simulation – by time or distance – is even more troubling. He did not measure any of the travel or slowing/stopping distances during his simulation. He make no recordation of his actual speeds or braking effort. This video would be more confusing than helpful to the jury. In addition, in his deposition testimony, he alluded to testing by Mr. Stopschinski, another Ford expert, which addressed with more quantifying data the effectiveness of the vehicle's braking system. Mr. Peterson's video would do too little to provide the jury additional or better information.

The Court **DIRECTS** the Clerk to send a copy of the written Memorandum Opinion and Order to counsel of record and any unrepresented parties.

ENTER: March 13, 2015



ROBERT C. CHAMBERS, CHIEF JUDGE